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| 09/242,014 | 04/05/1999 | ACHIM SCHMITT | CM11890 | 9441 |

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

21

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 21

Application Number: 09/242,014
Filing Date: April 5, 1999
Appellant(s): SCHMITT, ACHIM

Kevin C. Johnson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 3, 2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 1 and 6-9 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,454,804

Widlund

10-1995

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim 1 is rejected under 35 U.S.C. 102(b). This rejection is set forth in prior Office Action, Paper No. 18.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Widlund (5,454,804).

Widlund discloses a sanitary napkin, as shown in figure 1-6, for wearing the crotch portion of an undergarment (9). The sanitary napkin has a longitudinal axis and a transverse axis, and comprises a main body portion having longitudinal and transverse side edges, as shown in figures 1 and 5. The main body portion comprises a wearer facing surface (1) and a garment facing surface (2). The sanitary napkin comprises side wrapping elements (4, 5) that are integrally connected to the main body portion. The side wrapping elements (4, 5) are intended to be folded around the edges of the leg opening's of a wearer's undergarment (9), and are therefore folded along fold lines, as shown in figure 6. The side wrapping elements (4, 5) are attached to the garment facing surface (2) of the main body portion such that the side wrapping elements (4, 5) are predisposed in an in-use position prior to use, as shown in figure 3.

Art Unit: 3761

(11) Response to Argument

In response to appellant's argument that Widlund does not disclose side wrapping elements that are integral with the main body portion, the term "integral" is construed as a relatively broad term and is not necessarily restricted to a one-piece article. It is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Dike* (CCPA) 157 USPQ 581, *In re Kohno* (CCPA) 157 USPQ 275, and *In re Hotte* (CCPA) 177 USPQ 326. Widlund discloses side wrapping elements (4, 5) attached to the side edges of the main body portion. The side wrapping elements (4, 5) are therefore integral with the main body portion, since the side wrapping elements (4, 5) are fastened to the main body portion to form one unit, the sanitary napkin.

For the above reasons, it is believed that the rejections should be sustained.

Art Unit: 3761


Respectfully submitted,

C. Lynne Anderson
September 15, 2003

Conferees

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